

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JOHN JOSEPH VOLZ,	:	CIVIL ACTION
Petitioner,	:	
	:	
v.	:	
	:	
GERALD L. ROZUM, et al.,	:	NO. 09-885
Respondents.	:	

EXPLANATION AND ORDER

This Court previously entered an order (Doc. No. 3) directing the Clerk of Quarter Sessions of Philadelphia County to file with the Clerk of this Court the state court record in the matter of Commonwealth v. John Volz, Court of Common Pleas of Philadelphia County, C.P. #9609-0214, 0215, 0216 (Term Sept. 1996) and C.P. #9707-0933 (Term July 1997) (convicted April 2, 1998) (Means, J.). The Court has been advised, however, that the Clerk of Quarter Sessions cannot provide the record at this time due to the pendency of a PCRA appeal in that matter.

Respondents have appended to their answer pertinent Pennsylvania Superior Court opinions in this case, as well as copies of police statements taken of Petitioner and a witness. They have also asserted a failure to exhaust as a defense to certain claims raised by Petitioner and have also cited to Notes of Testimony from either the trial or earlier proceedings. Among the issues also raised by the petition is the reasonableness of certain factual determinations made by the state courts. Ordinarily, we would have the benefit of the Quarter Sessions file to refer to the cited documents in considering these issues. In light of the unavailability of that file, however, we must ask Respondents to provide us with a copy of these materials.

AND NOW, this 7th day of December, 2009, in light of the foregoing and pursuant to Rule 5(c) of the Rules Governing Section 2254 Cases, **IT IS HEREBY ORDERED**

THAT the District Attorney of Philadelphia County shall submit to the Court, on or before December 14, 2009, copies of the following items:

1. Notes of Testimony of trial (Vols. I-VI);
2. Notes of Testimony of preliminary hearing, August 27, 1996;
3. Notes of Testimony of suppression hearing, March 30, 1998;
4. *Pro se* PCRA petition filed in May or June of 2004, with any appended exhibits and/or memoranda of law;
5. Counseled amended PCRA petition, with any appended exhibits and/or memoranda of law;
6. *Pro se* PCRA petition(s) filed in 2008, with any appended exhibits and/or memoranda of law; and
7. PCRA Court Order of July 24, 2009 disposing of 2008 PCRA petition.

BY THE COURT:

/s/ David R. Strawbridge
DAVID R. STRAWBRIDGE
UNITED STATES MAGISTRATE JUDGE